

Serial No. 09/931,037  
Reply to Office Action of September 22, 2004

### **REMARKS/ARGUMENTS**

Prior to this Amendment, claims 1-23 were pending in the application.

Independent claims 1 and 23 are amended to clarify that in the claimed method a user provides user input to select a module for upgrade and then selects components within that module for upgrading. Further, the user is able to select the source of modules (or portions of the module) and provide the location of the module selected for upgrade. No new matter is added with support found in Figures 1 and 11 and in the corresponding text.

Claims 18-22 are canceled.

New independent claim 24 is added to further protect features of the invention not shown by the references presently of record in the case. No new matter is added with support being found at least in Figure 11 and the corresponding portions of the specification beginning at para. [0027].

After entry of this Amendment, claims 1-17, 23, and 24 remain for consideration by the Examiner.

### **Claim Objections**

In the Office Action, claims 2 and 5 were objected to based on the use of "OMS" without spelling the acronym out. Claim 2 is amended to spell out the acronym and because claim 5 depends from claim 2, this objection is addressed.

### **Specification Objections**

The specification was objected to due to the use of the acronym "OMS", and this objection is addressed with an amendment that spells out the acronym the first time it was used in the specification.

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### **Claim Rejections Under 35 U.S.C. §112**

In the Office Action, claims 1, 2, and 5 were rejected under 35 U.S.C. §112, second paragraph as being indefinite. Claim 1 included the limitation "source and destination site parameter", and the Office Action stated this was unclear as to the number of parameters. Claims 2 and 5 were rejected as indefinite due to the use of the acronym "OMS".

Claim 1 is amended to clarify the claim language.

Claim 2 is amended to address the rejection of claim 2 and also claim 5, which depends from claim 2.

### **Claim Rejections Under 35 U.S.C. §101**

The Office Action rejected claims 18 and 22 as being directed to non-statutory subject matter. Claims 18 and 22 are canceled.

### **Claim Rejections Under 35 U.S.C. §102**

In the Office Action, claims 1-23 were rejected under 35 U.S.C. §102(b) as being anticipated by the "BuyerXpert 4.1 SP3 Upgrade Guide (hereinafter BuyerXpert)". This rejection is traversed based on the following remarks.

BuyerXpert is not a proper reference under 35 U.S.C. §102(b). The Office Action cites a publication that was said to be published on June 1999 (i.e., "Industry Slices Up Procurement Pie") for providing a 1999 publication date for BuyerXpert. The 1999 publication mentions on page 2 a "BuyerXpert 3.0" product. In contrast, as shown on page 1, BuyerXpert is a document describing "BuyerXpert 4.1 SP3" (emphasis added), which is clearly a different product. Hence, the publication date for BuyerXpert is not by inference the same date as the 1999 publication. Applicants did not find a publication date on BuyerXpert, but a last modified date of October 8, 2001 was provided (see, for example, pages 3 and 25), which is later than Applicants' filing date. Because BuyerXpert is not a proper reference under 35 U.S.C. §102(b), the rejection of claims 1-23 based on BuyerXpert is improper and should be withdrawn.

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Additionally, in the Office Action, claims 1-3 and 12-23 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Pat. No. 6,628,314 ("Hoyle"). Claims 18-22 are canceled. The rejection of claims 1-3, 12-17, and 23 is traversed based on the amendments to the claims and the following remarks.

Claim 1 as amended calls for providing a set of modules in a user interface and then receiving user input indicating a selection of one of the modules for upgrade and one of the components associated with the selected module for upgrade. User Input is also received indicating a location of the module and a destination for the upgraded module (or portions of the modules). In this manner, the method of claim 1 is able to address the issues with previous systems that failed to allow "operators of e-commerce sites...to upgrade particular utilities...[as] there are no mechanisms by which an operator can define which upgrade utilities are needed and which modules these upgrades are intended for."

With regard to claim 1, the Office Action cites Hoyle's Figures 7 and 13 for teaching each element of claim 1. However, neither figure discusses or suggests that modules are provided on a user interface, that a user input is received selecting a module and at least one component associated with the module for upgrade, and then, user input is received indicating a source for the module. Instead, with reference to col. 13, line 45 to col. 14, line 17 and col. 20, lines 19-47, Hoyle discusses a builder component 64 that acts automatically to build a blueprint of a system indicating the system's components and which version of the component is on the system, to compare the existing blueprint with an "update" blueprint, and then based on that comparison to automatically upgrade all components that are not the newest version. This is a very different process than called for in the method of claim 1, as the method of claim 1 involves user input being provided to select modules and components for upgrade. Because Hoyle fails to teach providing modules in a user interface and receiving the various user input called for in claim 1, Hoyle does not support a rejection of claim 1, and the rejection should be withdrawn.

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Claims 2, 3, and 12-17 depend from claim 1 and are believed allowable as depending from an allowable base claim.

Independent claim 23 is directed to a computer program product with limitations similar to claim 1 but in differing form. Hence, the reasons provided for allowing claim 1 over Hoyle are believed to be applicable to claim 23, and Applicants request that the rejection of claim 23 be withdrawn.

**Claim Rejections Under 35 U.S.C. §103**

Further, in the Office Action, claim 4 was rejected under 35 U.S.C. §103(a) as being unpatentable over Hoyle in view of U.S. Pat. No. 6,697,784 ("Bacon"). Claim 4 depends from claim 1 and is believed allowable as depending from an allowable base claim. Further, Bacon fails to overcome the deficiencies in Hoyle noted with reference to claim 1. As a result, the combination of Hoyle and Bacon fails to support a rejection of claim 4.

The Office Action rejected claim 5 as being unpatentable over Hoyle in view of U.S. Pat. No. 6,779,082 ("Burger"). Claim 5 depends from claim 1 and is believed allowable as depending from an allowable base claim. Also, Burger does not overcome the deficiencies discussed above with reference to claim 1. Therefore, claim 5 is allowable over the combined teachings of Hoyle and Burger.

Yet further, the Office Action rejected claim 6 as being unpatentable over Hoyle in view of U.S. Pub. No. 2004/0148232 ("Fushimi"). Claim 6 depends from claim 1 and is believed allowable for the reasons for allowing claim 1. Further, Fushimi does not overcome the lack of teaching in Hoyle discussed with reference to claim 1.

The Office Action also rejected claim 7 as being unpatentable over Hoyle in view of U.S. Pat. No. 5,630,069 ("Flores"). Claim 7 is believed allowable as depending from an allowable base claim, i.e., claim 1. Flores does not overcome the deficiencies of Hoyle with respect to claim 1.

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Further, the Office Action rejected claim 8 as being unpatentable over Hoyle in view of U.S. Pub. No. 2002/0023001 ("McFarlin"). Claim 8 depends from claim 1 and is believed allowable as depending from an allowable base claim.

The Office Action rejected claim 9 as being unpatentable over Hoyle in view of U.S. Pub. No. 2004/0098446 ("Styles"). Claim 9 depends from claim 1 and is believed allowable as depending from an allowable base claim. Further, Styles does not provide the teaching missing from Hoyle, which was discussed with reference to claim 1.

Yet further, the Office Action rejected claim 10 as being unpatentable over Hoyle in view of U.S. Pat. No. 6,681,229 ("Cason"). This rejection is traversed because claim 10 depends from claim 1, which is allowable over Hoyle. Additionally, Cason does not overcome the deficiencies in Hoyle discussed above with reference to claim 1.

Finally, the Office Action rejected claim 11 as being unpatentable over Hoyle in view of U.S. Pub. No. 2003/0167401 ("Murren"). Claim 11 depends from claim 1 and is, therefore, believed allowable as depending from an allowable base claim. Additionally, Murren fails to overcome the deficiencies in Hoyle discussed above with reference to claim 1.

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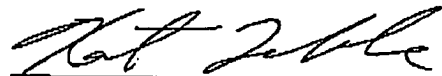
**Conclusions**

In view of all of the above, Applicants request that a timely Notice of Allowance be issued in this case.

No fee is believed due for this submittal. However, any fee deficiency associated with this submittal may be charged to Deposit Account No. 50-1123.

Respectfully submitted,

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